

REMARKS

Claims 1-17 are pending in the application. Claims 1-17 under 35 U.S.C. § 103(a) are rejected as being unpatentable over Hidehiro et al. (JP A09-331359) (hereinafter Hidehiro).

Claims 1,4, 7, 8, 11, 14 and 16 have been amended for to clarify minor points. No new matter is entered.

With regard to claim 1 the Office Action asserts the cited reference does not teach the network device controller nor does the cited reference teach the network device controller setting the priority in a network device on the communication path between the communication terminal and the destination of communication. It is believed the Office Action is equating this to the RSVP recited in the reference.

Office Action alleges the claimed invention is obvious to one having ordinary skill in the art from the combination of Hidehiro, RSVP, admission control and policy control.

Hidehiro relates to a router device that relays communication between networks. However, the router device is not a network-device control apparatus, but a network-device that is controlled by the network-device control apparatus. It is apparent that Hidehiro does not disclose the network-device control system and apparatus of the claimed invention.

The priority control of applicant's claimed invention is not taught nor suggested by Hidehiro and is not obvious to a person having skill in the art from the combination of Hidehiro and a well-known technique.

Further there is no suggestion which would lead one skilled in the art to make such a combination of prior art. The only such suggestion provided has been from applicant's own

disclosure. The Office Action only recites that it is “well-known” without providing any reference to judge this assertion by.

Hidehiro differs from the claimed invention with respect to the object, construction, operation and effects.

The claimed invention relates to a network-device control system that controls network-devices such as a router on a path between a user’s communication terminal and a server that is the destination of communication in accordance with the priority set by a user or application.

In the network-device control system, an event notification device detects that a user has logged in to the user’s communication terminal or a user has launched a predetermined application from the user’s communication terminal and reports an identifier of the user or an identifier of the application to a network-device control apparatus.

The network-device control apparatus acquires priority of the user indicated by the user identifier or priority of the application indicated by the application identifier and controls routers on a path between the user’s communication terminal and a server that is the destination of communication in accordance with the acquired priority.

This claimed priority control is not shown nor suggested in the Hidehiro reference. It is also respectfully submitted that there is no suggestion which would lead one skilled in the art to make such a combination of “prior art” at all and therefore is not obvious to a person having skill in the art from the combination of Hidehiro and well-known technique. The only such suggestion provided has been from applicant’s own disclosure. The Office Action only recites that it is “well-known” without providing any reference to judge this assertion by.


Even if all the elements were present in the cited references, it is well-established that a combination of limitations, some of which separately may be known, may be a new combination

of limitations which is nonobvious under the condition of 35 U.S.C. 103. Moreover, "an examiner may often find every element of a claimed invention in the prior art." In re Rouffet, 47 USPQ3d 1453, 1457 (Fed. Cir. 1998) (reversing PTO obviousness rejection based on lack of suggestion or motivation to combine reference). Therefore even if every element of a claimed invention is in the combined prior art there must be some suggestion or motivation to combine the references. "Although a reference need not expressly teach that the disclosure contained therein should be combined with another, the showing of combinability, in whatever form must nevertheless be 'clear and particularity.'" In re Dembiscak, 175 F.3d 994, 999 (CAFC 1999).

In view of the foregoing remarks it is respectfully requested the rejection of claims 1-17 be withdrawn and this application placed in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,


Brian S. Myers
Reg. No. 46,947

CUSTOMER NUMBER 026304

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, NY 10022-2585
(212) 940-8703
Docket No.: FUSA 16.844(100807-16747)
BSM:fd